

Public Hearing Regarding Appeal of the Certification of Consistency for the Smith Canal Gate Project

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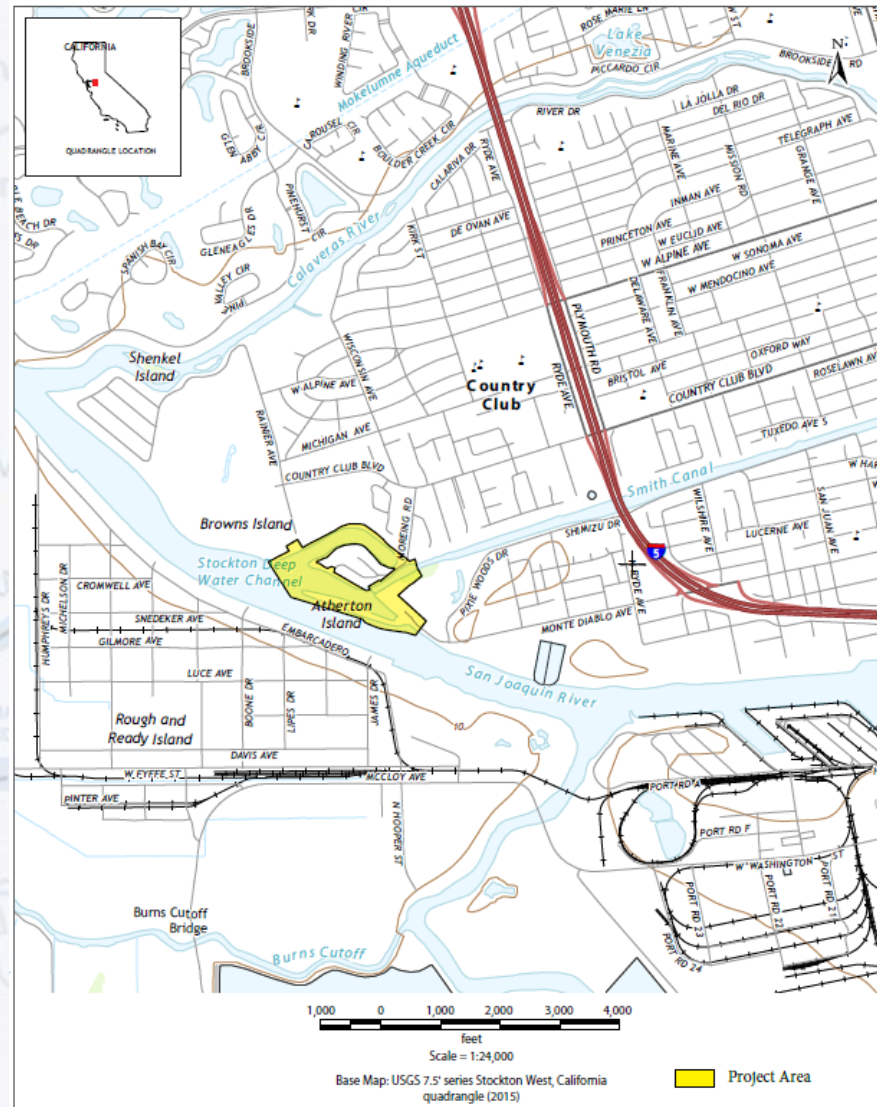


Overview

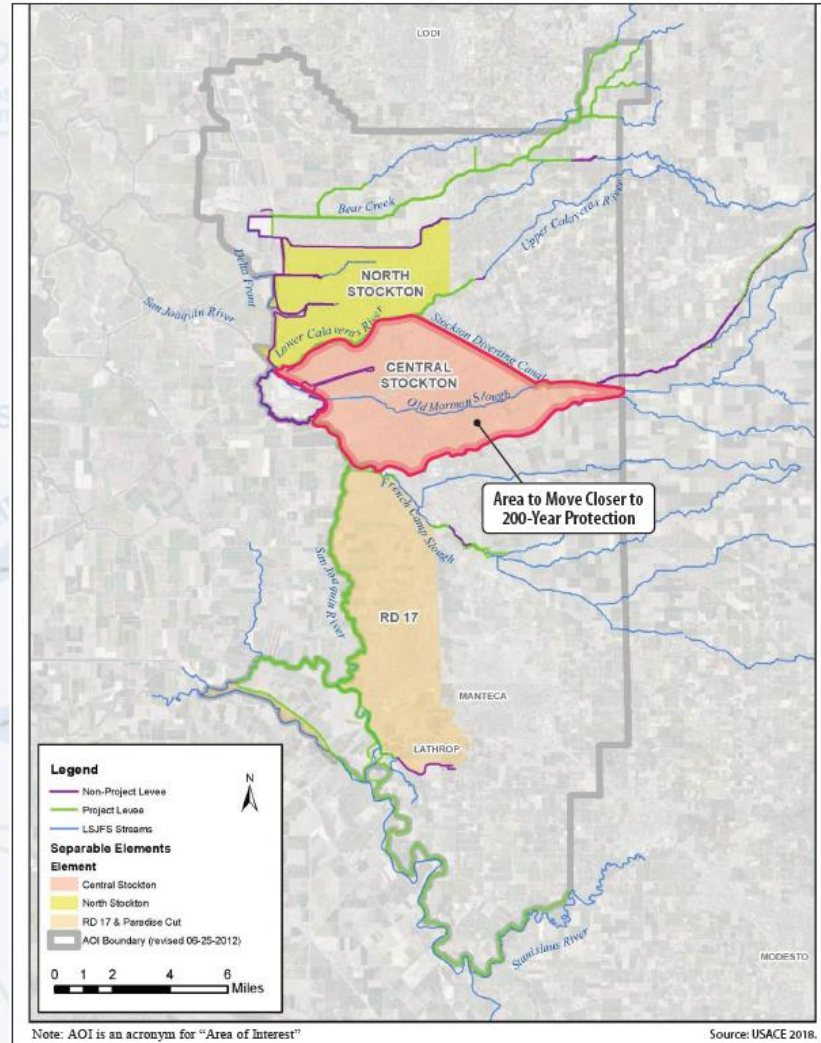
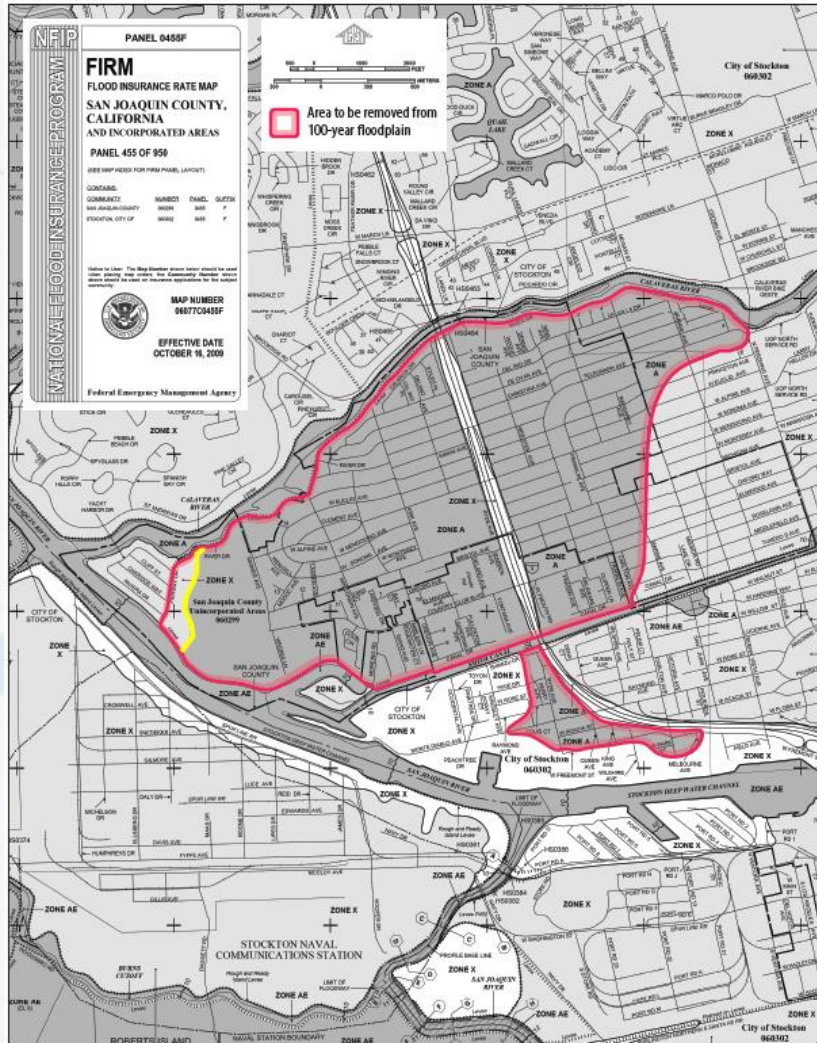
- Project description
- Council's covered action authority and process
- Summary of certification and appeals process to date
- Overview of today's activity

Project Description

- Project proponent
 - San Joaquin Area Flood Control Agency (SJAFCFA)
- Fixed wall and gate structure at mouth of Smith Canal and Atherton Cove in Stockton
- According to SJAFCFA, project is necessary for flood protection
- Certification of consistency available on Council's website



Project Description



Project Description



Covered Actions

- 2009 Delta Reform Act
 - State of California's policy to achieve the coequal goals
 - Granted Council regulatory and appellate authority over covered actions
- Delta Plan
 - Regulatory policies to meet objectives the Legislature said were inherent in the coequal goals
- Covered Action Authority
 - State and local agencies must demonstrate consistency with Delta Plan policies when carrying out, approving, or funding covered actions, prior to implementation

Certifications and Appeals

- Certification of Consistency
 - Proponent determines if a project is a covered action
 - Covered actions require written certification with detailed findings
- Appeals
 - Any person who claims a covered action is inconsistent with the Delta Plan may file an appeal within 30 days
 - Appeal must include specific factual allegations
- Certifications and appeals are noticed and listed on Council website

Substantial Evidence Standard

- Council does not independently review the project to determine if it is consistent with Delta Plan
- Council does determine if substantial evidence in record supports SJAFC's Certification that the project is consistent with Delta Plan, in light of appeal
- Scope of Council's review is whether the Certification is supported by substantial evidence

Appeal Description

- Appellant
 - Atherton Cove Property Owners Association (ACPOA)
- Appeal contends SJAFCA failed to demonstrate substantial evidence within the record to support consistency with aspects of the following Delta Plan policies:
 - **G P(1)(b)(2)** – Mitigation Measures
 - **G P(1)(b)(3)** – Best Available Science
 - **G P(1)(b)(4)** – Adaptive Management
 - **ER P5** – Invasive Nonnative Species
- Appeal available on Council's website

Smith Canal Appeal Timeline

- **November 2, 2018** – Council received SJAFCA's Certification of Consistency for the Smith Canal Gate Project
- **December 3, 2018** – Appeal filed by ACPOA
- **December 21, 2018** – Council sent notice of today's hearing to parties
- **January 17, 2019** – Parties provided written statements for today's hearing
- **Within 60 days** of today's hearing Council must make a decision regarding the appeal
 - Staff to release draft findings for public review prior to Council consideration at future publicly noticed hearing

A detailed map of the Sacramento-San Joaquin River Delta region. The map shows the Sacramento River flowing from the north and the San Joaquin River flowing from the south, meeting at the Delta. Numerous islands and tracts are labeled, including Grizzly Island, Suisun Bay, Honker Bay, and many others. Key infrastructure like the North Bay Aqueduct, Barker Slough Pumping Plant, and Mokelumne Canal are also shown. The word "Questions?" is overlaid in the center of the map in a large, dark blue serif font.

Questions?